

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

JOSEPH BELL, #646053

§

v.

§

CIVIL ACTION NO. 6:19cv331

RIKERS ISLAND WARDEN, ET AL.

§

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff Joseph Bell, an inmate currently confined at the Eastham Unit within the Texas Department of Criminal Justice (TDCJ) proceeding *pro se* and seeking to proceed *in forma pauperis*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On July 30, 2019, Judge Love issued a Report (Docket No. 4) recommending that Plaintiff Bell's civil rights lawsuit be dismissed with prejudice for purposes of *in forma pauperis* proceedings under 28 U.S.C. § 1915(g)—but without prejudice to the refiling of this lawsuit without seeking *in forma pauperis* status. Specifically, Judge Love found that Plaintiff Bell has accumulated at least three strikes under the Prison Litigation Reform Act (PLRA) and has been sanctioned at least twice. A copy of the Report was sent to Plaintiff Bell at his address, return receipt requested. The docket reflects that Plaintiff Bell received a copy of the Report on August 2, 2019 (Docket No. 5). To date, however, no objections to the Report have been filed.

Because no objections to Judge Love's Report have been filed, Plaintiff Bell is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual

findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass'n.*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).


The Court has reviewed the pleadings on file and the Report of the Magistrate Judge and has determined that the Report is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (holding that where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). Accordingly, it is

ORDERED that the Report of the United States Magistrate Judge (Docket No. 4) is **ADOPTED** as the opinion of the Court. Further, it is

ORDERED that the above-styled civil rights lawsuit is **DISMISSED** with prejudice for purposes of an *in forma pauperis* proceeding under 28 U.S.C. § 1915(g)—but without prejudice as to the refiling of this lawsuit without seeking *in forma pauperis* status. Finally, it is

ORDERED that any and all motions that may be pending in this civil action are hereby **DENIED**.

So **ORDERED** and **SIGNED** this **17th** day of **October, 2019**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE